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C O N F I D E N T I A L SECTION 01 OF 03 ABUJA 001737

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DEPT FOR L/LEI-UISEK, INL AND AF/W

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DOJ FOR OIA-JASON CARTER AND OPDAT-JIM SILVERWOOD

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NSC FOR AFRICA DIRECTOR JENDAYI FRAZER

E.O. 12958: DECL: 06/10/2017

TAGS: [CJAN](#) [KCRM](#) [SNAR](#) [NI](#)

SUBJECT: NIGERIA: SUCCESSFUL EXTRADITION OF GABRIEL UMOH

REF: A. ABUJA 1592

[B](#). LAGOS 887

[C](#). STATE 69699

[D](#). STATE 69669

This is an action cable; action for INL in para 16.

Classified by CDA Timothy D. Andrews for reasons 1.5(b) and (d).

1.(U) Summary: The Government of Nigeria turned over fugitive Gabriel Etim Umoh to Embassy's LEGATT on June 8 and he was flown out of the country, bound for Washington, via a commercial flight that evening. GON cooperation was excellent. The Attorney General oversaw the GON's side of the process and personally intervened with prison authorities to ensure Umoh was transferred to the LEGATT's custody in a timely manner. This success reflects the GON's commitment to improved law enforcement cooperation with us. We would like to think it presages progress on our pending extradition requests for at least 11 more fugitives, but our optimism should be cautious. End Summary.

2.(SBU) In response to formal USDOJ extradition papers presented to the Ministry of Justice in early February, Attorney General Kanu Agabi on April 10 ordered the start of extradition proceedings for Umoh. A U.S.-Nigeria dual national, Umoh was convicted of mail fraud in the court district of Central California and sentenced to 18 months imprisonment followed by three years of probation. Free on bond, Umoh fled to Nigeria rather than reporting to prison. In mid-April, Umoh's extradition proceedings opened in the Lagos High Court.

3.(SBU) Court proceedings ended on May 13 and the presiding judge issued a favorable ruling on May 20. The Director of Public Prosecutions, Mrs. I.S. Omiyi, formally notified the Embassy June 5 that an order transferring Umoh to the Embassy's custody would be forthcoming within days.

4.(SBU) Mission elements worked on the assumption that the extradition should proceed as quickly as possible. LEGATT Michael Bonner volunteered to escort Umoh to Washington on a commercial flight and USSS Assistant Attache' Frank Boudreau agreed to be the second escort. On June 7, the Embassy responded to Omiyi's letter, stating that we were ready and wanted to proceed with the transfer forthwith. In a phone call with RNLEO that afternoon, the AG agreed to sign the order immediately. He agreed to fly a MOJ official fly to Lagos with the original copy of the order on the morning of June 8.

Prison Problems

5.(SBU) On June 8, Omiyi, LEGATT, RNLEO, a Police/Interpol Officer and the MOJ official who carried the AG's order from Abuja went directly to the Prison in Lagos, where the group found a recalcitrant Prison Supervisor who offered myriad reasons for not turning over the fugitive -- ranging from the inconvenient timing (the weekend) and lack of an explicit court order, to uncertainty over the authenticity of the AG's written order. The Embassy officers remained silent during this exchange.

6.(C) RNLEO phoned the AG's personal assistant in Abuja (who was in the AG's residence) and got the AG on the phone with the DPP. The AG then spoke with the Prison Superintendent,

who produced Umoh within 15 minutes. (Note: The AG's Special Assistant later disclosed to RNLEO that the AG had informed the Prison Superintendent that if he didn't transfer Umoh the AG would go to the President and have him fired. The AG also warned that anyone obstructing this lawful extradition would be disciplined. End Note)

7.(SBU) According to the MOJ officials who were inside the prison, when Umoh was informed he would be leaving for the U.S., he attempted to forestall the extradition by claiming that he had filed an appeal. The DPP reportedly noted that no such appeal had been registered with the court. Umoh then stated that he planned to file the appeal when courts reopened on Monday. This did not impress the DPP and Umoh was soon transferred to the custody of the Nigerian Police(Interpol) officer and escorted to a temporary police holding facility nearby. Four hours later (7pm) LEGATT and USSS Asst. Attache arrived in U.S. Mission vehicles with Consulate security escorts and formally took Umoh into USG custody. RNLEO accompanied the group to the airport.

Departure Time

8.(SBU) The U.S. Mission received excellent cooperation from Nigerian authorities during the crucial transfer of Umoh to a KLM flight at Lagos' Murtala Muhammed International Airport. RNLEO requested NDLEA assistance in providing security and a secure area where Umoh could be held; NDLEA Chairman Lafiaji obliged immediately. The Federal Aviation Authority of Nigeria's (FAAN) Chief of Security for the airport met the arriving convoy at the diplomatic parking area and escorted the party to the NDLEA hold area, allowing the US officials and the fugitive to bypass the more congested arrival hall. The FAAN official later escorted the travelers through a direct route to the gate. KLM also was very cooperative, allowing for early boarding and selective seating.

9.(SBU) Umoh and his FBI/USSS escorts departed Lagos at 10:40pm on KLM flight 588 and, after pre-arranged assistance from Dutch Immigration, the party connected to Northwest Flight 35 that left Amsterdam on June 9 and arrived at Washington/Dulles at 2:10pm. At Dulles Airport, U.S. Marshals took Umoh, escorting him to California.

Umoh's Case

10.(SBU) Gabriel Umoh, a dual U.S./Nigerian national, had plead guilty and was convicted of one charge of Mail Fraud in the court of the Central District of California in November 1987. Before beginning his prison sentence of 18 months and 3 years of probation, he violated bail and fled to Nigeria. In November 1998 the USG requested Umoh's arrest but no action was forthcoming. In February 2001 Umoh and two Nigerian narcotics fugitives were arrested by the Nigerian police. The GON planned to render these three fugitives to US justice without formal extradition proceedings, similar to the process used to render four fugitives in November 2000. After the USG indicated the need for formal extradition hearings, the police in April 2001 released them.

11.(SBU) Through the Embassy, DOJ resubmitted full documentation for Umoh's arrest and extradition in February 2002. Umoh was rearrested shortly after the Attorney General signed the official order to start extradition proceedings in his case on April 8. Those proceedings started one week later.

12.(SBU) According to the MOJ prosecutor presenting the Ministry's case for Umoh's extradition before the Federal High Court, the defense counsel attempted to argue that the crime (mail fraud) was not covered under the U.S.-UK Extradition treaty of 1931 or the 1967 Nigerian Extradition Act. This argument failed. MOJ prosecutors are not entirely sure why Umoh did not immediately appeal the judge's ruling, but speculate that given the lack of any successful extraditions in the past, Umoh's attorney may not have seen the urgency in filing that appeal.

13.(C) Comment: In any event, the attorney's failure to act promptly, together with GON determination to help us move swiftly, produced the first judicial extradition to the U.S. from Nigeria in at least a decade -- perhaps longer. This is a major accomplishment, and we would like to think it bodes well for our many other extradition requests. However, we need to temper our optimism. Umoh's case was different from

most as he had already been convicted. Also, Umoh may not have had the same resources available to him to corrupt judicial proceedings that we believe other fugitives have often employed. End Comment

Kudos and Action Request

14.(C) The new Attorney General moved our request for Umoh's extradition through the judicial system at a remarkable pace.

According to his Special Assistant, Agabi expressed his desire to erase Nigeria's poor image as a criminal haven. This first extradition under the Obasanjo administration has shown that the corruption-plagued Nigerian justice system can work when pushed. Umoh's status as a convicted (vice indicted) fugitive probably helped the public prosecutor's case. Umoh's extradition also benefited from an ideal level of GON support -- from the Attorney General just a cell phone call away to having the Director of Public Prosecutions accompany LEGATT and RNLEO to the Prison. The timing was also perfect. A late Friday order from the AG to the Prison and the Police and an immediate Saturday departure preempted a last minute appeal. It was disappointing, but not surprising given Nigeria's endemic corruption, that the AG had to make explicit threats to get line officers to obey his formal and written orders.

15.(C) During his transport to the United States, Umoh confided to Legatt that the federal Prison Ikoyi was grossly overcrowded and he paid N30,000 for a semi private jail cell with a television set. Umoh stated that he had planned to file his appeal first thing Monday and the Prison Official was aware of his plan. Umoh stated that the official's reluctance to release him was a result of his knowledge that Umoh was going to file the appeal. Keeping Umoh in prison was to the official's advantage because he would continue to receive payments from Umoh for his privilege of a semi-private jail cell. Umoh stated that the official offered to get him released from prison for N800,000.

16.(SBU) Kudos for team work all around. This success reflects excellent teamwork on all sides. We want to thank Jason Carter and others in DOJ/OIA, Peter Prahar and Ed Flood in INL, Steve Cutler and others at FBI Headquarters, Richard Visek in L/LEI, Carl Cundiff and Dan Epstein in AF/W, and all others in Washington who contributed to this extremely short-fused coordination task -- all done by phone and e-mail before we could get a cable out. That great Washington support was mirrored by teamwork at the U.S. Mission here, from getting formal correspondence to the Nigerian Justice Ministry to arranging security for the prisoner transfer and a Consular Section travel letter for the passport-less prisoner. And, of course, we appreciate the efforts of some terrific counterparts in the Nigerian Police and Ministry of Justice who went beyond the call of duty to make sure this happened.

17.(C) We will begin plans for the next extradition already in train -- Daniel Orhiumu (ref D), also convicted of fraud. Encouraged by our success with Umoh and with valuable lessons learned in that process, we hope the Justice Ministry will work with us in clearing the backlog of extradition requests, while entertain new requests. We would caution, however, that Umoh's case may have been easier for the court to process and, as the first extradition success, it had the benefit of surprise -- other fugitives may be better prepared to file quick appeals.

18.(SBU) Action Request for INL: In light of this positive development, we would like to set dates for the INL-funded OPDAT extradition workshop in Abuja and involving US and Nigerian MOJ prosecutors and Nigerian High Court judges. We would propose July or August as a general time-frame.

ANDREWS